IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

RP.No. 374 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.2648/2007 Dated 15/02/2007

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REVIEW PETITIONERS/RESPONDENTS

1. MATHAI, S/O RAPPAI, CHOORAKKAL HOUSE, P.O.NALUKETTU, VALUNGAMURY DESOM, KIZHAKKUMURY VILLAGE, MUKUNDAPURAM TALUK.

2. JOSHY, S/O MATHAI, CHOORAKKAL HOUSE, P.O.NALUKETTU, VALUNGAMURY DESOM, KIZHAKKUMURY VILLAGE, MUKUNDAPURAM TALUK.

BY ADV. SRI.BABU CHERUKARA

RESPONDENTS/PETITIONER

JOSE, S/O DEVASSYKUTTY, CKOORAKKAL HOUSE, P.O.NALUKETTU, VALUNGAMURY DESOM, KIZHAKKUMURY VILLAGE, MUKUNDAPURAM TALUK.

BY

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 09/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

R.P. No. 374 of 2007
in
W.P. (C) No.2648 of 2007

Dated this the 9th day of April, 2007

ORDER

The respondents in W.P. (C) No.2648 of 2007 which was disposed of by this court vide judgment dated 15.2.2007 are the petitioners in the review petition. At the time of argument in the writ petition it was submitted by the learned counsel for the respondent herein that his party is interested in settling the matter at Adalath and till then the orders impugned may not be allowed to be implemented. As per the said judgment, this court set aside the orders impugned and remitted the matter back to the court below observing that the party shall be at liberty to work out their remedies by settling the matter at Adalath, if they so choose. It was further ordered that however till such time when either a settlement is arrived at or the suit itself is disposed of on merits the present petitioners who were the

respondents in the writ petition shall not be entitled to install suction pump in the well presently belonging to the respondent/petitioner and draw water by such mechanical means. In Ground H of the review petition, the review petitioners have stated that they reinstalled the suction pump and oil engine on the basis of the express permission granted by the Munsiff's Court in I.A No.1051/2005. The said order of the Munsiff which was confirmed also by the first appellate court was set aside by this Court by Judgment in W.P. (C) No. 2648/2007. It is submitted by the counsel for the respondent that it is true that his party who is the respondent in the review petition has filed prosecution petition, commission application and a petition for mandatory injunction directing the removal of the suction pump and that a commission was issued allowing the application for issue of a commission and accordingly Commissioner has submitted the report which shows that suction pump had been used by the review petitioners and water was being drawn from the well by mechanical means which was the very thing that was prohibited by this court vide judgment in the writ petition

aforementioned. The review petitioners who have disobeyed the orders of this court and drawn water installing suction pump from the well belonging to the respondent is not entitled to any relief in this review petition and is liable to be proceeded against for contempt and by mandatory injunction as per applications filed in the court below by the respondent. Accordingly, this review petition is dismissed.

(K.P.Balachandran, Judge).

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/True copy/

P.A. to Judge